REMARKS

This Response is submitted in reply to the Office Action dated December 6, 2005, and in accordance with the personal interview conducted with the Examiner on January 30, 2006. Claims 1, 2, 8, 9, 19, 20 and 29 and the specification at page 16, line 28 to page 17, line 7 are amended. New claims 32 to 38 are added. No new matter has been added by any of these amendments or new claims. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

A Supplemental Informational Disclosure Statement is filed herewith. A check totaling the amount of $730.00 is submitted herewith to cover the cost of the Supplemental IDS and the new claims. If any additional fee is due, please charge Deposit Account No. 02-1818 for any insufficiency of payment or credit any overpayment.

Applicants thank the Examiner for courteously granting the personal interview on January 30, 2006. The following remarks constitute Applicants' written statement as to the substance of the interview.

The Office Action rejected claims 1-11, 14, 15 and 17-31 under 35 U.S.C. §103(a) as being unpatentable over Tracy (U.S. Patent No. 6,296,568) in view of Pachinko Computer Game by Brian Kent dated 1997 (hereafter "Kent").

At least one embodiment of the gaming device of the present invention enables the player to choose an area from which an object starts moving. That is, the player selects the start position. In one embodiment, the player can choose a plurality of start positions including left-most start positions, intermediate start positions, or right-most start positions. In the pachinko-type game of the present invention, it is desirable that the object land in an end position relative to a start position generally according to the laws of physics. That is, if a player selects a left-most start position, the laws of physics predict that the moving object can land in an end position furthest to the right, but that the probability of that scenario occurring is some percentage less than the object

15

landing in a centrally located end position, and a greater percentage less than the object landing in an end position towards the left side of the display device.

As seen in connection with Figs. 7 and 8 of Applicants' specification, the game assigns each of the available awards an overall percentage, which sets the average payout. Those overall percentages are then split according to a start position and an end position. For example, in Fig. 8, one sees that for the "W" start position (Figs. 4, 5A, 5B, 5C and 6), the likelihood is four times greater that an object falling from "W" lands in the left-most award position 128 (Figs. 4, 5A, 5B, 5C and 6) versus a right-most award position 140. For the "W" start position, the left-most award position 128 is displayed closer in proximity to an area of the start area which is part of the "W" start position than the right-most award position 140. Additionally, a greater number of predetermined paths are provided from the "W" start position to the left-most award position 128 than the right-most award position 140. The probability distributions can be scaled according to the implementer to make the object fall or move to a position that is generally predictable by the laws of physics along one of the predetermined paths, and wherein, the percentages operate within the overall percentages defined to provide a desired payout.

Independent claim 1 recites a gaming device operated under the control of a processor that includes, amongst other elements, a display device, a start area defined by a plurality of different start positions, an input device, a plurality of award positions, a plurality of different paths including at least one predetermined path from each start position to each award position, at least one award associated with at least one of the award positions and an object displayable by the display device moving from the start area to one of the award positions along one of the predetermined paths there between, wherein: (i) after one of the plurality of start positions is selected by the player activating the input device; (ii) the award position is determined by the processor from the plurality of award positions, wherein for at least one of the start positions (a) a first one of the award positions is more likely to be generated than a second one of the award positions, and (b) the first award position is displayed by the display device closer in proximity to an area of the start area which is part of the start position than the second award position; (iii) the object moves along one of the predetermined paths from the

16

selected start position to the determined award position, and (iv) wherein any award associated with the determined award position is provided to the player.

Independent claim 19 recites a gaming device operated under the control of a processor that includes, amongst other elements, a display device, a start area defined by a plurality of different start positions, an input device, a plurality of award positions, a plurality of different paths including at least one predetermined path from each start position to each award position, at least one award associated with at least one of the award positions and an object displayable by the display device moving from the start area to one of the award positions along one of the paths there between, wherein: (i) after one of the start positions is selected by the player activating the input device; (ii) the award position is determined by the processor, wherein for each of the start positions (a) a first one of the award positions is predetermined to be generated more often than a second one of the award positions, and (b) the first award position is displayed by the display device closer in proximity to an area of the start area which is part of the start position than the second award position; (iii) the object moves along one of the predetermined paths from the selected start position to the determined award position, and (iv) wherein the award associated with the determined award position is provided to the player.

Independent claim 29 recites a gaming device operated under the control of a processor that includes, amongst other elements, a display device, a plurality of award positions, a plurality of awards associated with the award positions, a start area defined by a plurality of different start positions, a plurality of different paths from the start positions to the award positions including a predetermined path from each start position to each award position and an object displayable by the display device, wherein one of the award positions is generated based on a selected start position and probabilities associated with the selected start position for generating each of the award positions from each of the start positions, wherein the probabilities are structured such that award positions closer in proximity to the selected start position are selected more often than are award positions further in proximity to the selected start position, wherein the object moves from the start area to a generated award position along one of the

17

predetermined paths and wherein the award associated with the generated award position is provided to the player.

Neither Tracy nor Kent, whether analyzed alone or in combination, disclose, teach or suggest, a gaming device including, amongst other elements, an object that moves to an end position from a start position selected by a player generally according to the laws of physics along a predetermined path.

Tracy teaches a gaming device that includes display 10 having a pyramid or triangular game board 12 with an apex 14, a base 16 and a plurality of pins 18 disposed between apex 14 and base 16. A plurality of locations 20a-q are disposed at base 16 to define outcomes 22a-f for the game (col. 2, line 64 to col. 3, line 7). During play of the game, one or more objects or balls 24 start at the apex 14 and deflect off pins 18 during travel along the game board 12 toward the outcomes 22a-f. Tracy teaches that outcomes 22a-f with the highest payout (e.g., lower probability) are located near the boundaries 26, 28 of the game board 12 while the outcomes 22a-f with the lowest payout (e.g., higher probability) are located along the center of the base 16 (Figs. 1 and 2 and col. 3, lines 34-39). In Tracy, the operator influences the objects 24 to land in certain outcomes 22a-f in accordance with determined game odds or math.

As recognized by the Office Action, Tracy does not disclose or teach a plurality of different start positions for the ball and an input device operated by a player to select one of the plurality of different start positions. The Office Action relies on Kent to teach these elements. Kent teaches a computer pachinko game played without wagers. In Kent's game, an object or ball travels along a game screen. The object ball appears to be initially positioned at the right or left of the top of the game screen, where a player can choose the initial right or left position for the ball. On each drop of the ball, the ball travels along the game screen to various end positions and the player accumulates points when the ball lands in one of the end positions.

The Office Action speculated that it would be advantageous for one skilled in the art to combine Tracy with Kent to "have included a player selectable starting point for the object to drop from, thus allowing the player to be in control and making the game more exciting and stimulating player's interest". The Office Action's motivation to modify or combine the teachings of Kent in accordance with Tracy would merely be a product

of impermissible hindsight analysis because providing the player with multiple player-selectable start positions as taught by Kent does not apply to and teaches away from the apex start position of the triangular game board of Tracy. In particular, the triangular game board of Tracy is structured so that the ball 24 starts at the apex 14, moves toward the higher paying outcomes located near the boundaries 26, 28 of the game board 12 while the ball 24 is near the apex 14 and deflects toward the lower paying outcomes located along the center of the base 16 (col. 3, lines 34-41). Tracy teaches that the apex start position and the pyramid or triangular game board give the player the illusion that the player has a better chance of winning than actually occurs, make the game more exciting, and stimulate player's interest (col. 3, lines 34-41). As described above, the operator in Tracy influences the objects 24 to land in certain outcomes 22a-f in accordance with determined game odds or math. Thus, the triangular game board structure specifically disclosed in Tracy teaches away from accommodating the right and left start positions of Kent as proposed by the Office Action because such a modification would ruin the game odds or math taught by Tracy and cause the operator to lose control of the probabilities or percentages of the outcomes 22a-f.

There is no motivation or suggestion in either Tracy or Kent for the modification proposed by the Office Action. Modifying the gaming device of Tracy to include multiple right or left start positions as taught by Kent, and proposed by the Office Action, would require substantial alteration of the triangular game board in Tracy. As stated above, the triangular game board of Tracy is specifically structured so that the ball 24 starts at apex 14, moves toward the higher paying outcomes while the ball 24 is near the apex 14 and deflects toward the lower paying outcomes while the ball approaches the base 16. This structure allows the operator to control the probabilities or percentage for the outcomes 22a-f as described above. Tracy does not teach or suggest that the pyramid or triangular game board can accommodate multiple start positions, nor does Kent provide any suggestion or motivation for one skilled in the art to do so.

Regardless of whether it would be obvious to modify or combine Tracy in view of Kent in such a manner, neither Tracy nor Kent individually or in combination, teach, disclose or suggest a gaming device as recited in independent claims 1, 19 and 29. In particular, the combination of Tracy and Kent does not teach or suggest a gaming

19

device that includes, amongst other elements, an object that moves to an end position from a start position selected from a plurality of different start positions by a player along one of a plurality of predetermined paths extending from the selected start position to a generated or determined end position and wherein the award associated with the generated or determined end position is provided to the player.

As described above, Tracy teaches that the operator influences an object to move toward the higher paying (e.g., lower probability) outcomes located near the boundaries 26, 28 of the game board 12 while the object is near apex 14 and to move toward the lower paying (e.g., higher probability) outcomes located along the center of the base 16 as the object approaches the base 16. The object does not move along one of a plurality of predetermined paths from one of a plurality of start positions to a generated or determined end position. Kent teaches multiple start positions on right and left sides of a game screen. Any combination of Tracy and Kent would provide start positions to the left and right of apex 14 (assuming, arguendo, that such a combination could be made). As a result, the multiple starting positions of the proposed combination would ruin the game odds or math taught by Tracy and cause the operator to lose control of the probability or percentage for the outcomes 22a. Moreover, the proposed combination of Tracy and Kent does not teach an object that moves along one of a plurality of predetermined paths from one of a plurality of start positions to a generated or determined end position, as recited in independent claims 1, 19 and 29. Accordingly, independent claims 1, 19 and 29 are patentable over the proposed combination of Tracy and Kent. Specifically, the proposed combination of Tracy and Kent does not disclose, teach or suggest a gaming device operated under the control of a processor wherein:

> (A) (i) after one of the plurality of start positions is selected by the player activating the input device; (ii) the award position is determined by the processor from the plurality of award positions, wherein for at least one of the start positions (a) a first one of the award positions is more likely to be generated than a second one of the award positions, and (b) the first award position is displayed by the display device closer in proximity to an area of the start area which is part of the start position than the second award position; (iii) the object moves along one of

the predetermined paths from the selected start position to the determined award position, and (iv) wherein any award associated with the determined award position is provided to the player, as in claim 1;

(B) (i) one of the start positions is selected by the player activating the input device; (ii) the award position is determined by the processor, wherein for each of the start positions (a) a first one of the award positions is predetermined to be generated more often than a second one of the award positions, and (b) the first award position is displayed by the display device closer in proximity to an area of the start area which is part of the start position than the second award position; (iii) the object moves along one of the predetermined paths from the selected start position to the determined award position by the processor, and (iv) wherein the award associated with the determined award position is provided to the player, as in claim 19; or

(C) wherein one of the award positions is generated based on a selected start position and probabilities associated with the selected start position for generating each of the award positions from each of the start positions, wherein the probabilities are structured such that award positions closer in proximity to the selected start position are selected more often than are award positions further in proximity to the selected start position, wherein the object moves from the start area to a generated award position along one of the predetermined paths and wherein the award associated with the generated award position is provided to the player, as in independent claim 29.

Claims 2-11, 14, 15, 17-18, 20-28 and 30-31 depend directly from one of independent claims 1, 19 and 29 and are also allowable for the reasons given with respect to independent claims 1, 19 and 29, and because of the additional features in these claims. Specifically, claim 25 recites that "two of the award positions are associated with the same award" which is not taught in the combination of Tracy and Kent (and recognized in lines 10-11 of Section 7 on Page 6 of the Office Action).

Dependent claims 3 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tracy, as modified by Kent, and in view of Dietz (U.S. Patent No. 5,704,835).

Dietz is an electronic slot machine which allows a player to completely respin one or more of the symbols displayed after the first spin in order to create, improve or even lose a winning combination. Dietz does not remedy the deficiencies noted above with respect to the proposed combination of Tracy and Kent as relating to independent claims 1 and 19. Accordingly, the combination of Tracy, Kent and Dietz does not teach or suggest all of the elements in independent claim 1 (and its dependent claim 3) or independent claim 19 (and its dependent claim 21).

Dependent claims 12 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tracy, as modified by Kent, and in view of Plinko Computer Game by Kenny Lyons dated 1998.

The prior art date cited in the Office Action for the Plinko reference of Lyons was 1998. However, this date conflicts with the date, October 28, 2002, cited on (1) page 1 of the Plinko reference of Lyons provided to Applicants; (2) item U on the PTO-892, Notice of References Cited and (3) the last cited document in Applicants' Information Disclosure Statement dated April 26, 2004 and initialed by the Examiner. Applicants note that the effective filing date of the present application, September 28, 2001, precedes the prior art date of October 28, 2002 for the Plinko reference of Lyons. Applicants further note that the game of Plinko is prior art, although the Plinko reference of Lyons is not.

As stated in the Office Action, the combination of Tracy and Kent does not teach or suggest all of the elements recited in dependent claims 12 and 13. Accordingly, dependent claims 12-13 are patentably distinguished from the combination of Tracy and Kent.

Dependent claim 16 was rejected under 35 U.S.C. §103(a) as being unpatentable over Tracy, as modified by Kent, and further in view of Pierce (U.S. Patent No. 6,139,013).

Pierce is a mechanical pachinko game that randomly changes and associates values with end positions to eliminate mechanical bias in the game (col. 2, line 36 and Figs. 2 and 3). Pierce does not remedy the deficiencies noted above with respect to the proposed combination of Tracy and Kent as relating to independent claim 1. Accordingly, the combination of Tracy, Kent and Pierce does not teach or suggest all of the elements in independent claim 1 (and its dependent claim 16).

New claims 32 to 38 are presented for the Examiner's consideration. Like the independent claims 1, 19 and 29, new claims 32 to 38 are not taught or suggested by the proposed combination of Tracy and Kent. New claims 32 to 38 are at least supported by Figures 4 through 8 of Applicants' Specification.

An earnest endeavor has been made to place this application in condition for allowance and is courteously solicited. If the Examiner has any questions related to this Response, Applicants respectfully request that the Examiner contact the undersigned below.

Respectfully submitted,

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23